

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

RIA R SQUARED, INC.

Plaintiff,

v.

PHILLIP McCOWN,

Defendant,

**Case No. 2:21-cv-12937**  
HON. LINDA V. PARKER

MAGISTRATE JUDGE  
CURTIS IVY, JR.

**TRIAL BY JURY DEMANDED**

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PHILLIP McCOWN,

Third-Party Plaintiff,

v.

UNITED STATES OF AMERICA,

Third-Party Defendant.

**THIRD PARTY COMPLAINT**

1. Phillip McCown brings this Third-Party Complaint against the United States of America for an unknown agent(s) of the Federal Bureau of Investigation act, within the scope of their employment, of causing to be seized \$351,300.67 from Phillip McCown's bank account.

2. The \$351,300.67 seized are a portion of the same monies that Ria R Squared, Inc.'s Complaint in the Eastern District of Michigan alleges Phillip

McCown received from Paul D. McCown, further alleging that Phillip McCown is liable to Ria R Squared for under, Count I, the Michigan Uniform Voidable Act, for the same\$351,300.67, plus more.

3. If Ria R Squared Inc., obtains a judgment against Phillip McCown on Count I of its Complaint, Michigan Uniform Voidable Act claim, Phillip McCown should be entitled to contribution in the amount of \$351,300.67 from the United States of America, alternatively the \$351,300.67 should be returned to Phillip McCown's bank account under the Michigan common law of replevin.

### **JURISDICTION AND VENUE**

4. This Court's Jurisdiction is invoked under 28 U.S.C. §1331, 28 U.S.C. § 1346(b)(1).

5. As this is a third-party complaint against the United States Government, it falls within the Federal Tort Claim's Act's exception to the administrative requirement provided for in 28 U.S.C. § 2675(a), "[t]he provisions of this subsection shall not apply to such claims as may be asserted under the Federal Rules of Civil Procedure by third party complaint[.]"

6. Phillip McCown is a natural person residing in the District when the complained of seizer of \$351,300.67 from Phillip McCown's bank account occurred.

7. Around June 20, 2021, the Federal Bureau of Investigation, though an agent(s) within the scope of their employment, seized \$351,300.67 from Phillip McCown's bank account.

8. The seized \$351,300.67 from Phillip McCown's bank account are funds directly traceable to the monies that Ria R Squared claims in Count I of its Complaint against Phillip McCown that is pending in the Eastern District of Michigan.

9. Ria R Squared has asserted claims against Phillip McCown in the Eastern District of Michigan for his receipt of \$375,000 from Paul D. McCown, under Count I, the Michigan Uniform Voidable Act seeking to recover \$375,000 which includes an amount of \$351,300.67 that was then involuntarily transferred to the United States Government via the Federal Bureau of Investigation's seizer.

10. Phillip McCown is seeking contribution from the United States Government, alternatively for the return of the \$351,300.67.

11. The Federal Bureau of Investigation is an entity that should be joined under Rules 19(a)(1)(b)(i) and 19(a)(1)(b)(ii), but was not named by Ria R Squared, Inc., in its Complaint against Phillip McCown, or implead under Rule 14(a) as a third party who may be liable for part of Ria R Squared's monetary claim in Count I as the party in control of \$351,300.67 seeks to recover.

12. Ria R Squared, Inc. has acknowledged in the Eastern District Complaint against Phillip McCown that it can obtain a double recovery of \$351,300.67, one from Phillip McCown and one from the Federal Bureau of Investigation if the Federal Bureau of Investigation transfers the \$351,300.67 to Ria R Squared, Inc., a transfer that Ria R Squared, Inc. notes is a real possibility. ECF No. 1, PageID.7-8 ¶ 28.

### **PARTIES**

13. Phillip McCown is an RNA and computational biologist at a well-known Michigan University, who has researched RNA structures that are involved in oncogenesis and cerebral development, a silent, non-voting, shareholder in McCown Enterprises, LLC, and is an innocent recipient of \$375,000 he believed was related to his silent share in McCown Enterprises, LLC.

14. The \$375,000 Phillip McCown received was part of a \$15,000,000 loan voluntarily provided by Ria R Squared, Inc., to Paul D. McCown and/or McCown Enterprises, LLC.

15. On information and belief, Ria R Squared, Inc., was grossly negligent before funding the \$15,000,000 loan it provided to Paul D. McCown and/or McCown Enterprises, LLC.

16. On or around July 12, 2021, Phillip McCown responded to a subpoena *duces tecum* issued by Ria R Squared, Inc., in *Ria R Squared, Inc., v. Paul D.*

*McCown, and McCown Enterprises, LLC*, 21-cv-125-S (D. Wy.), producing documents in response to the subpoena.

17. The Federal Bureau of Investigation is a federal law enforcement agency statutorily empowered by the United States Congress to enforce and investigate certain alleged violations of the United States Criminal Code.

18. The Federal Bureau of Investigation is part of the Department of Justice and formally subject to oversight and direction by the Attorney General.

19. United States Government is being named for the actions of an unknown agent(s) of the Federal Bureau of Investigation acting within the scope of their office or employment.

20. The Federal Bureau of Investigation has indicated that Phillip McCown is not a “target” of its investigation regarding the monies that at issue in *Ria R Squared, Inc., v. Paul D. McCown, and McCown Enterprises, LLC*, 21-cv-125-S (D. Wy.), which includes a duplicative claim for \$375,000 that is asserted in this lawsuit by Ria R Squared, Inc., against Phillip McCown.

### **FACTS**

21. Phillip McCown is a silent shareholder in McCown Enterprises, LLC, under the November 11, 2020 Operating Agreement. (Exhibit A).

22. Phillip McCown believed that for his contribution of services provided to the company, he was receiving \$375,000 resulting from a sale of that Company, a “dividend payment”. See (Exhibit B, March 24, 2021 email).

23. On May 11, 2021, \$375,000 was transferred to Phillip McCown’s bank account via a wire transfer.

24. Around June 20, 2021, an unknown agent(s) of the Federal Bureau of Investigation caused to be seized \$351,300.67 from Phillip McCown’s bank account.

25. Ria R Squard’s counsel, Steven Popofsky of Kleinberg, Kaplan, Wolff & Cohen, P.C. 500 Fifth Ave., New York, New York 10110, who has yet to file an appearance in the case, even though apparently admitted in the Eastern District of Michigan, in an email sent on October 26, 2021, stated in part, “And your kind offer of discovery is unfortunately valueless because (i) it is discovery from Paul we need, not from Phillip (and we are not able to get discovery from Paul), and (ii) in any event it wouldn’t be cost-effective for us to pursue discovery of your client at this time, with currently only \$21,000 at stake.” (Exhibit C)

26. Phillip McCown has now been sued by Ria R Square, Inc. in the Eastern District of Michigan.

27. The Complaint filed by Ria R Square, Inc., in the Eastern District of Michigan includes a claim in Count I under the Michigan Uniform Voidable Act that

includes the \$351,300.67 transferred to Phillip McCown, that was then seized by the Federal Bureau of Investigation, as damages.

### **COUNT I**

28. The United States Government seizer of \$351,300.67 from Phillip McCown's bank account amounts to an injury and loss of property.

29. The United States Government seizer of \$351,300.67 from Phillip McCown's bank account was a negligent and/or a wrongful act, as Phillip McCown received that money as a silent shareholder in McCown Enterprises, LLC, and believed that under the November 11, 2020 Operating Agreement, (Exhibit A), that for his contribution of services provided to the company, he was receiving \$375,000 resulting from a sale of that Company, a "dividend payment". See (Exhibit B, March 24, 2021 email).

30. The United States Government seizer of \$351,300.67 from Phillip McCown's bank account was done while the unknown agent(s) of the Federal Bureau of Investigations was acting within the scope of their office or employment.

31. The United States Government seizer of \$351,300.67 from Phillip McCown's bank account was done while the unknown agent(s) of the Federal Bureau of Investigations was acting within the scope of their office or employment, under circumstances where the United States, if a private person, would be liable to Phillip McCown in accordance with the laws of Michigan when the seizer occurred.

32. Prior to the seizer of the \$351,300.67 from Phillip McCown's bank account, the Federal Bureau of Investigation owes a legal duty to Phillip McCown to investigate whether the property it is about to seize was transferred for a legitimate reason.

33. On information and belief, given the extremely short time period in which Ria R Squared contacted the Federal Bureau of Investigation and the time \$351,300.67 was seized from Phillip McCown's bank account, the Federal Bureau of Investigation's investigation was negligent.

34. The Federal Bureau of Investigation breached its duty of care in investigating Phillip McCown prior to seizing the \$351,300.67 from his bank account.

35. As a direct and proximate cause of the Federal Bureau of Investigation's negligence, \$351,300.67 was seized from Phillip McCown an innocent recipient.

36. As a direct and proximate cause of the Federal Bureau of Investigation's negligence, Phillip McCown has been damaged in the amount of \$351,300.67.

37. \$351,300.67 was involuntarily transferred from Phillip McCown to the Federal Bureau of Investigation is part of the amount of money that Ria R Squared



claims Phillip McCown is liable for under Michigan Uniform Voidable Act for having received \$375,000 from Paul D. McCown.

38. Phillip McCown is entitled to contribution from the United States of America in the amount of \$351,300.67 if any judgment is entered against Phillip McCown.

39. Under Michigan law, replevin is the common law claim for recovering property wrongfully taken or detained.

WHEREFORE, Phillip McCown requests a judgment in the amount of \$351,300.67 to be entered against the United States Government and for Phillip McCown if a judgment is entered in Ria R Square, Inc.'s favor in the case pending in the Eastern District of Michigan, along with the maximum amount of attorney's fees permitted under 28 U.S.C. § 2678 for obtaining the monies for the benefit of Ria R Square, Inc., alternatively, for a judgment returning \$351,300.67 to Phillip McCown.

Respectfully submitted,  
/s/ Curtis C. Warner

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## CERTIFICATE OF SERVICE

I hereby certify that on **February 8, 2022**, I filed electronically the foregoing **Third Party Complaint**, with the Court using the Court's ECF system, which will automatically send notice to all counsel of record that has so appeared:

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A copy will be served separately on the United States of America.

Respectfully submitted,  
/s/ Curtis C. Warner

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